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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,968	05/22/2001	John Andrew Aiken JR.	5577-233	9829
20792 7590 05/03/2005 MYERS BIGEL SIBLEY & SAJOVEC PO BOX 37428 RALEIGH, NC 27627			EXAMINER VU, VIET DUY	
			ART UNIT 2154	PAPER NUMBER

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/862,968

Applicant(s)

AIKEN ET AL.

Examiner

Viet Vu

Art Unit

2154

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

Extensions of time may be available under the provisions of 37 CFR 1.136(e). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.

- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-47 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11, 13-17, 19-24, 26-30, 32, 34 and 36-47 is/are rejected.
- 7) ☒ Claim(s) 12, 25, 31, 33 and 35 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/22/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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Art Rejections:

1. The text of 35 U.S.C. 103(a) cited in the previous office action is hereby incorporated by reference.

2. The rejection of claims 1-11, 13-17, 19-24, 26-30, 32, 34 and 36-47 under 35 U.S.C. 103(a) as being unpatentable over Barrera, U.S. pat. No. 6,247,057, mailed 10/22/2004, is hereby incorporated by reference.

Allowable Subject Matter:

3. Claims 12, 25, 31, 33 and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Amendment:

4. Applicant's arguments filed on 1/20/2005 with respect to claims 1-11, 13-17, 19-24, 26-30, 32, 34 and 36-47 have been fully considered but they are not deemed persuasive.

Per claim 1, Applicant alleges that Barrera fails to teach assigning or selecting a port for a connection utilizing a common network address because Barrera appears to use different IP addresses for different instances of a service.

This is not found persuasive. Barrera teaches providing and/or running multiple service instances on the same host server that would have a single real physical IP address (see Barrera in col 3, lines 21-27). This common physical IP address is then used to generate multiple virtual names/addresses for use by multiple virtual service instances (see Barrera in col 5, lines 39-50 and col 8, lines 14-18). Barrera also teaches generating and assigning different port IDs for different service instances based upon the virtual IP addresses of the server (see Barrera in col 8, lines 34-52). This step of generating and assigning a port for connection to a virtual service equates to the claimed limitation calling for selecting a port for a connection. Although it appears to the client side that different IP addresses for virtual services are used, at a lower level however the same common IP address, i.e., real server IP address, would be used to route the application request to the correct location. Since the present claims still fail to clearly define as to how the alleged common address is used, it is submitted that Barrera's teaching meets the claimed limitation.

Per claim 13, Applicant also alleges that Barrera fails to teach using dynamic virtual IP addresses.

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This is not found persuasive. As stated above, Barrera clearly teaches dynamically generating virtual IP addresses for virtual service instances (see Barrera in col 8, lines 14-18).

Finally, regarding applicant's request for considering IDS supposedly filed September 13, 2004, the examiner is unable to locate such IDS in the file record. Therefore, Applicant is requested to resubmit the mentioned IDS for considering by the examiner in the next correspondence.

Conclusion:

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Viet Vu whose telephone number is 571-272-3977. The examiner can normally be reached on Monday through Thursday from 8:00am to 4:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee, can be reached on 571-272-3964.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



VIET D. VU
PRIMARY EXAMINER

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4/28/05